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THE BARBERING AND COSMETOLOGY ACT (CHAPTER 10 OF DIVISION 3 OF THE BUSINESS AND PROFESSIONS CODE)

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DENIAL, SUSPENSION AND REVOCATION OF LICENSES (DIVISION 1.5 OF THE BUSINESS AND PROFESSIONS CODE)

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Article 1. Administration

7301. Citation of Chapter

This chapter constitutes the chapter on hair, skin, nail care, and electrolysis and may be known and cited as the Barbering and Cosmetology Act.

7302. Definitions

The following definitions shall apply for purposes of this chapter:

- (a) "Department" means the Department of Consumer Affairs.
- (b) "Director" means the Director of Consumer Affairs.
- (c) "Board" or "bureau" means the State Board of Barbering and Cosmetology.
- (d) "Executive officer" means executive officer of the State Board of Barbering and Cosmetology.

7303. Control of Director

(a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested.

(b) The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.

(c) The Board shall appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and invested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.

(d) The executive officer shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

(e) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

7303.1 Public Protection

Protection of the public shall be the highest priority for the Board of Barbering and Cosmetology in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

7303.2 Board Studies and Review

The board shall conduct the following studies and reviews, and shall report its findings and recommendations to the department and the Joint Legislative Sunset Review Committee no later than September 1, 2005:

- (a) The board pursuant to Section 139 and in conjunction with the Office of Examination Resources if the department, shall review the 1600 hour training requirement for cosmetologists.
- (b) The board, in conjunction with the Office of Examination Resources of the department, shall evaluate the equivalency of the national exam.
- (c) The board, shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.
- (d) The board, in coordination with the Department of Industrial Relations, shall review all components of the apprenticeship program, including but not limited to, the following:
 - (1) Apprenticeship curriculum requirements.

- (2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The board shall pay particular attention to ways to eliminate duplicative regulations.
- (e) The board shall review all components of the externship program. In addition to structural changes, the board shall address the following:
 - (1) Whether the program should be eliminated.
 - (2) Whether the program should be available to all students, not just cosmetology students attending private schools.
 - (3) Whether the students should be paid.
- (f) The board shall assess the costs and benefits associated with same day licensing. If the board determines that the benefits of same day licensing outweigh the costs, the board shall immediately plan and implement safety measures to protect site staff and undispersed licenses.
- (g) The board, in conjunction with the Office of Examination Resources of the department, shall assess the validity of aggregate scoring for board applicants.

7304. Per Diem and Expenses

The board shall be subject to review pursuant to Division 1.2 (commencing with Section 473).

7309. Principal Office and Branch Offices

The board shall establish a principal office, and may establish branch offices and examination facilities in the state as may be deemed necessary for the board to conduct its business.

7311. Seal

The board shall adopt and use a common seal for the authentication of the board's records.

7312. Powers and Duties of Director

The board shall do all of the following:

- (a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.
- (b) Conduct and administer examinations of applicants for licensure.
- (c) Issue licenses to those applicants that may be entitled thereto.
- (d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.
- (e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the board, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

7313. Access to and Inspection of Establishments, Mobile Units, and Schools; Notices of Violation

- (a) (1) To ensure compliance with the laws and regulations of this chapter, the board's executive officer and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.
- (2) The board shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The board or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The board shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents,

and shall not re-direct funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the board, the executive officer and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a time span within which the violation must be corrected. A copy of the notice of violation shall be provided to the Council for Private Postsecondary and Vocational Education.

(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.

7314. Recordkeeping

The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.

The board shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts as the applicants may have stated in their application for examination for licensure.

7315. Quorum

A majority of the board may, in any meeting properly noticed in accordance with the Bagley-Keene Open Meeting Act, exercise all the duties and powers devolving upon the board.

Article 2. Application of Chapter

7316. Practice of Barbering; Practice of Cosmetology

(a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods which are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means the hair of any person.

(2) Massaging, cleaning or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.

(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.

(c) Within the practice of cosmetology there exist the specialty branches of skin care, and nail care.

(1) Skin care is any one or more of the following practices:

(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.

(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, or manicuring the nails of any person or massaging, cleansing, or beautifying the hands or feet of any person.

(d) The practice of barbering and the practice of cosmetology do not include any of the following:

(1) The mere sale, fitting, or styling of wigs or hairpieces.

(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include hair cutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.

(e) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hair styling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.

(f) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by use of an electric needle only.

"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

7317. Practice of Barbering, Cosmetology, or Electrolysis for Compensation Without License

Except as provided in this article, it is unlawful for any person, firm, or corporation to engage in barbering, cosmetology, or electrolysis for compensation without a valid, unexpired license issued by the bureau, or in an establishment or mobile unit other than one licensed by the bureau, or conduct or operate an establishment, or any other place of business in which barbering, cosmetology, or electrolysis is practiced unless licensed under this chapter. Persons licensed under this chapter shall limit their practice and services rendered to the public to only those areas for which they are licensed. Any violation of this section is a misdemeanor.

7318. Exception for Practice Outside Licensed Establishment Due to Illness or Incapacitation

This chapter does not prohibit the administration of any practice subject to this chapter outside of a licensed establishment, when necessary due to the illness or other physical or mental incapacitation of the recipient of the service, and when performed by a licensee obtained for the purpose from a licensed establishment.

7319. Persons Exempt From Chapter

The following persons are exempt from this chapter:

(a) All persons authorized by the laws of this state to practice medicine, surgery, dentistry, pharmacy, osteopathic medicine, chiropractic, naturopathy, podiatry, or nursing and acting within the scope of practice for which they are licensed.

(b) Commissioned officers of the United States Army, Navy, Air Force, or Marine Corps, members of the United States Public Health Service, and attendants attached to those services when engaged in the actual performance of their official duties.

(c) Persons employed to render barbering, cosmetology, or electrolysis services in the course of and incidental to the business of employers engaged in the theatrical, radio, television or motion picture production industry.

(d) Persons engaged in any practice within its scope when done outside of a licensed establishment, without compensation.

(e) Persons engaged in the administration of hair, skin, or nail products for the exclusive purpose of recommending, demonstrating, or selling those products.

(f) Persons who render barbering and cosmetology services in an institutional program during the course of and incidental to the incarceration or confinement of inmates, prisoners, or persons charged with a crime. However, all of the following conditions shall apply:

(1) Those persons shall complete a barbering training course, developed by the Department of Corrections and approved by the Department of Consumer Affairs, in the proper care of instruments and the prevention of infectious diseases.

(2) Those persons shall successfully pass an examination, developed and administered by the Department of Corrections, on the proper care of instruments and the prevention of infectious diseases.

(3) All barbering facilities located in correctional institutions shall be subject to all appropriate health and safety sanitation standards, as determined by the Department of Corrections.

7319.5 Exemption for Students

Students engaged in performing services on the public while enrolled in a school approved by the bureau shall not be required to be licensed under this chapter if they perform those services at the approved school in which they are enrolled.

7320. Authority to Practice Medicine or Surgery

This chapter confers no authority to practice medicine or surgery.

7320.1 Use of Metal Instruments in Providing Manicure or Pedicure

When providing a manicure or pedicure, no metal instruments shall be used except those metal instruments necessary for the cutting, trimming, manicuring, or pedicuring of nails or cuticles.

7320.2 Illegal Use of X-ray Appliance

Any licensee who uses an X-ray appliance, apparatus or machine in the treatment of any human being or for the purpose of or with the intent to remove superfluous hair from the face or body of any human being, or who applies to any human being a solution of phenol greater than 10 percent, or corrosive sublimate (mercury) or any of its preparations, derivatives, or compounds in a solution greater than one in five hundred, is guilty of a misdemeanor.

7320.3 Representation as Cosmetologist

Persons who are not licensed to perform all of the practices of a cosmetologist may not represent themselves as a cosmetologist.

7320.4 Representation as Barbers

Persons who are not licensed as barbers in this state may not represent themselves as barbers.

Article 3. Qualifications for Examination

7321. Cosmetologists Admitted to Examination

The bureau shall admit to examination for a license as a cosmetologist to practice cosmetology any person who has made application to the board in proper form, paid the fee required by this chapter, and is qualified as follows:

- (a) Is not less than 17 years of age.
- (b) Has completed the 10th grade in the public schools of this state or its equivalent.
- (c) Is not subject to denial pursuant to Section 480.
- (d) Has done any of the following:

(1) Completed a course in cosmetology from a school approved by the board.

(2) Practiced cosmetology as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in cosmetology from a school the curriculum of which complied with requirements adopted by the board. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.

(3) Holds a license as a barber in this state and has completed a cosmetology crossover course in a school approved by the board.

(4) Completed a barbering course in a school approved by the bureau and has completed a cosmetology crossover course in a school approved by the bureau.

(5) Completed the apprenticeship program in cosmetology specified in Article 4 (commencing with Section 7332).

7321.5 Barbers Admitted to Examination

The bureau shall admit to examination for a license as a barber to practice barbering, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in barbering from a school approved by the bureau.

(2) Completed an apprenticeship program in barbering approved by the bureau as conducted under the provisions of the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(3) Practiced barbering as defined in this chapter outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in barbering from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(4) Holds a license as a cosmetologist in this state and has completed a barber crossover course in a school approved by the bureau.

(5) Completed a cosmetology course in a school approved by the bureau and has completed a barber crossover course in a school approved by the bureau.

(6) Completed comparable military training as documented by submission of Verification of Military Experience and Training (V-MET) records.

7324. Estheticians Admitted to Examination

The bureau shall admit to examination for a license as an esthetician to practice skin care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in skin care from a school approved by the bureau.

(2) Practiced skin care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in skin care from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in skin care specified in Article 4 (commencing with Section 7332).

7326. Manicurists Admitted to Examination

The bureau shall admit to examination for a license as a manicurist to practice nail care, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 10th grade in the public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course in nail care from a school approved by the bureau.

(2) Practiced nail care, as defined in this chapter, outside of this state for a period of time equivalent to the study and training of a qualified person who has completed a course in nail care from a school the curriculum of

which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in nail care specified in Article 4 (commencing with Section 7332).

7330. Electrologists Admitted to Examination

The bureau shall admit to examination for a license as an electrologist to practice electrolysis, any person who has made application to the bureau in proper form, paid the fee required by this chapter, and is qualified as follows:

(a) Is not less than 17 years of age.

(b) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.

(c) Is not subject to denial pursuant to Section 480.

(d) Has done any of the following:

(1) Completed a course of training in electrolysis from a school approved by the bureau.

(2) Practiced electrolysis, as defined in this chapter, for a period of 18 months outside of this state within the time equivalent to the study and training of a qualified person who has completed a course in electrolysis from a school the curriculum of which complied with requirements adopted by the bureau. Each three months of practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1).

(3) Completed the apprenticeship program in electrology specified in Article 4 (commencing with Section 7332).

7331. Credit for Out-of-State Practice, Study, or Training

Any person who fails to qualify for admission to an examination because the person's practice outside this state does not fulfill the requirements of this chapter shall receive credit for that practice or study and training outside this state, or for the number of hours of study and training completed outside this state, which is substantially equivalent to the study and training required in this state, as determined by the bureau.

Those persons shall be qualified for examination upon completion of supplementary study and training in an approved school in this state.

7331.5 Legislative Intent

It is the intent of the Legislature that no law which may hereafter be enacted increasing the number of hours of training in a school approved by the bureau or the length of training in an apprenticeship program approved by the bureau which are required for eligibility for any examination shall apply to a person who on the effective date of the law is a student in, or has completed the prescribed course of study in, a school or is an apprentice in an apprenticeship program. This section shall not apply to a person who does not apply for and take the first examination for which he or she is eligible occurring after the effective date of the law, unless compliance with this requirement is waived by the bureau for good cause as defined in regulations.

Article 4. Apprenticeship

7332. "Apprentice"

An apprentice is any person who is licensed by the bureau to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the bureau.

7333. Conduct of Apprentice Training Program

The apprentice training program shall be conducted in compliance with the Shelley-Maloney Apprentice Labor Standards Act of 1939, Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code, according to apprenticeship standards approved by the administrator of apprenticeship. A copy of the act shall be maintained on file with the bureau.

7334. Persons Licensed as Apprentices in Barbering, Cosmetology, Skin or Nail Care, or Electrolysis

(a) The bureau may license as an apprentice in barbering, cosmetology, skin care, or nail care any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is over 16 years of age.

(2) Has completed the 10th grade in the public schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.

(b) The bureau may license as an apprentice in electrolysis any person who has made application to the bureau upon the proper form, has paid the fee required by this chapter, and who is qualified as follows:

(1) Is not less than 17 years of age.

(2) Has completed the 12th grade or an accredited senior high school course of study in schools of this state or its equivalent.

(3) Is not subject to denial pursuant to Section 480.

(4) Has submitted evidence acceptable to the bureau that any training the apprentice is required by law to obtain shall be conducted in a licensed establishment and under the supervision of a licensee approved by the bureau.

(c) All persons making application as an apprentice in barbering shall also complete a minimum of 39 hours of preapprentice training in a facility approved by the bureau prior to serving the general public.

(d) All persons making application as an apprentice in cosmetology, skin care, nail care, or electrology shall also complete minimum preapprentice training for the length of time established by the bureau in a facility approved by the bureau prior to serving the general public.

(e) Apprentices may only perform services on the general public for which they have received technical training.

(f) Apprentices shall be required to obtain at least the minimum hours of technical instruction and minimum number of practical operations for each subject as specified in bureau regulations for courses taught in schools approved by the bureau, in accordance with Sections 3074 and 3078 of the Labor Code.

7335. Expiration of Apprentice's License

(a) The license of an apprentice shall expire two years from the date the license was issued, or on the date the apprentice is issued a license following the license examination, or if the apprentice fails the license examination twice, on the date the results of the second examination are issued, whichever occurs first.

(b) No person holding a license as an apprentice shall work more than three months after completing the required training without applying for and taking the examination for licensure.

(c) The bureau may extend the two-year or three-month period described in subdivisions (a) and (b) upon a showing of good cause which shall include, but not be limited to, delays in applying for and taking the examination caused by an illness of, or accident to, the apprentice, or service in the armed forces of the United States.

7336. Conditions Under Which Apprentice May Practice

An apprentice may do any or all of the acts for which he or she is licensed only in the licensed establishment and under the supervision and employment of a licensee approved by the bureau.

Article 5. Examinations

7337. Formal Requirements of Application; Fee

Every application for admission to examination and licensure shall be in writing, on forms prepared and furnished by the bureau.

Each application shall be accompanied by the required fee, and shall contain proof of the qualifications of the applicant for examination and licensure. It shall be verified by the oath of the applicant. Every applicant shall, as a condition of admittance to the examination facility, present satisfactory proof of identification. Satisfactory proof of identification shall be in the form of a valid, unexpired driver's license or identification card, containing the photograph of the person to whom it was issued, issued by any state, federal, or other government entity.

7337.5 Adoption of Regulations; "Preapplication"; Licensing Examination

(a) The bureau shall adopt regulations providing for the submittal of applications for admission to examination of students of approved cosmetology, electrology, or barbering schools who have completed at least 75 percent of the required course clock hours and curriculum requirements (60 percent for students of the manicurist course). The regulations shall include provisions that ensure that all proof of qualifications of the applicant are received by the bureau before the applicant is examined.

(b) An application for examination submitted under this section shall be known as a "preapplication" and an additional preapplication fee may be required.

(c) This section shall become operative on July 1, 1992.

(d) The bureau shall administer the licensing examination not later than 10 working days after graduation from an approved cosmetology, electrology, or barbering school to students who have submitted an application for admission for examination under the preapplication procedure.

7338. Contents of Examination

The examination of applicants for a license shall include both a practical demonstration and a written test and shall embrace the subjects typically taught in a program approved by the bureau.

The examination shall not be confined to any particular system or method. It shall be consistent in both practical and technical requirements, and of sufficient thoroughness to satisfy the bureau as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct and grading of examinations, practical demonstrations shall prevail over written tests.

The scope of examinations shall be consistent with the definition of the activities licensed under this chapter, and shall be as the bureau, by regulation, may require to protect the health and safety of consumers of the services provided by licensees.

The bureau's examinations shall be limited to clearly job-related questions, activities, and practical services. Examinations shall also include written tests in antisepsis, disinfection, sanitation, the use of mechanical apparatus and electricity as applicable to the practice of barbering, cosmetology, or electrolysis. They may include other demonstrations and tests as the bureau, in its discretion, may require.

7340. Preparation, Administration, and Grading of Examinations

All examinations shall be prepared by or under the direction of the bureau. The bureau shall establish standards and procedures governing administration and grading and shall exercise supervision as may be necessary to assure compliance therewith.

7340.5 Monitoring of Examination Process; Report to the Legislature

The department shall monitor the examination process and, in association with the board, shall report to the Legislature by July 1, 1994, on the efficiency of the examination process pursuant to Sections 7338 and 7340.

7341. Mailing of Total Grade Received on Failed Examinations

The bureau shall mail or deliver to every person failing any examination provided for in this chapter the total grade received on the examination.

An unsuccessful applicant for licensure, after taking an examination and within 90 days after the results thereof have been declared, shall have the right to inspect his or her examination paper in the city in which the examination was taken.

7342. Issuance of Licenses

Licenses in the practice of the occupation for which the license was sought shall be issued by the bureau to any applicant who satisfactorily passes an examination, who possesses the other qualifications required by law and who has remitted the license fee required by this chapter. The license shall entitle the holder to engage in the practice of that occupation in a licensed establishment.

7344. Contract for Examination Facilities

The bureau may contract or otherwise arrange for reasonably required physical accommodations and facilities to conduct examinations.

7345. Abandonment of Application and Forfeiture of Fee

If an applicant fails to complete his or her application within one year after it has been filed, or fails to take the examination within one year after becoming eligible therefor, the application shall be considered abandoned and the fee forfeited. An application submitted after the abandonment of a former application shall be treated as a new application and shall be required to meet all of the requirements for an initial license.

Article 6. Establishments

7346. “Establishment”

(a) For purposes of this chapter, “establishment” means any premises, building or part of a building where any activity licensed under this chapter is practiced.

(b) “Establishment also includes any premises, building, or part of a building in which natural hair styling is practiced for compensation.

7347. Application for License to Operate Establishment

Any person, firm or corporation desiring to operate an establishment shall make an application to the bureau for a license accompanied by the fee prescribed by this chapter. The application shall be required whether the person, firm, or corporation is operating a new establishment or obtaining ownership of an existing establishment. If the applicant is obtaining ownership of an existing establishment, the bureau may establish the fee in an amount less than the fee prescribed by this chapter. The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure in effect at the time the new application is submitted pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location shall be unlawful unless a license for the new location has been obtained upon compliance with this section, applicable to the issuance of a license in the first instance.

7348. Establishment to be in Charge of Licensee

An establishment shall at all times be in the charge of a person licensed pursuant to this chapter except an apprentice.

7349. Employment of Unlicensed Persons

It is unlawful for any person, firm, or corporation to hire, employ, or allow to be employed, or permit to work, in or about an establishment, any person who performs or practices any occupation regulated under this chapter and is not duly licensed by the bureau, except that a licensed cosmetology establishment may utilize a student extern, as described in Section 7395.1.

Any person violating this section is subject to citation and fine pursuant to Section 7406 and is also guilty of a misdemeanor.

7349.1 Misleading Use of Barber Pole as Unfair Business Practice

It is an unfair business practice to any person, firm, or corporation who engages in a practice regulated under this chapter to use the traditional symbol known as the barber pole, which comprises a striped vertical cylinder with a ball on top, with the intent to mislead the public in any manner that would make the public believe that barbering was being practiced in, or that a licensed barber is employed in, an establishment that does not employ licensed barbers.

7350. Use of Portion of Establishment for Residential Purposes

No person having charge of an establishment, whether as an owner or an employee, shall permit any room or part thereof in which any occupation regulated under this chapter is conducted or practiced to be used for residential

purposes or for any other purpose that would tend to make the room unsanitary, unhealthy, or unsafe, or endanger the health and safety of the consuming public.

An establishment shall have a direct entrance separate and distinct from any entrance in connection with private quarters.

A violation of this section is a misdemeanor.

7351. Provision and Maintenance of Adequate Facilities

Every establishment shall provide at least one public toilet room located on or near the premises for its patrons. Any toilet room installed on or after July 1, 1992, shall be not less than 18 square feet in area. The entrance to the room shall be effectively screened so that no toilet compartment is visible from any workroom. The room shall be kept in a clean condition and in good repair, well lighted and ventilated to the outside air, and effectively screened against insects and free from rodents. The floor shall be of concrete, tile laid in cement, vitrified brick, or other nonabsorbent material. All sewer drains shall be connected to an approved disposal system, and shall be properly trapped. No restroom shall be used for storage.

7352. Handwashing Facilities

Every establishment shall provide adequate and convenient handwashing facilities, including running water, soap and approved sanitary towels.

7353. Inspections

Within 90 days after issuance of the establishment license, the bureau or its agents or assistants shall inspect the establishment for compliance with the applicable requirements of this chapter and the applicable rules and regulations of the bureau adopted pursuant to this chapter. The bureau shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The bureau or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The bureau shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

Article 7. Mobile Units

7354. "Mobile Unit"

For purposes of this article, "mobile unit" means any self-contained, self-supporting, enclosed mobile unit which is at least 24 feet in length which is licensed as an establishment for the practice of any occupation licensed by the bureau and which complies with this article and all health and safety regulations established by the bureau.

7355. Application for License

(a) Any person, firm, or corporation desiring to operate a mobile unit shall make an application to the bureau for a license containing the information and data set forth in subdivision (b). The applicant, if an individual, or each officer, director, and partner, if the applicant is other than an individual, shall not have committed acts or crimes which are grounds for denial of licensure pursuant to Section 480. A license issued pursuant to this section shall authorize the operation of the unit only within those geographical boundaries designated by the bureau. Operation of the unit outside of the geographical boundaries for which the license is issued shall be unlawful, unless a license for the expanded geographic area has been obtained upon compliance with this article applicable to the issuance of a license in the first instance.

(b) Each application shall include the following:

- (1) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit in compliance with this article.
- (2) Proof of purchase or lease of the mobile unit and shop equipment.
- (3) The required fee.

(4) Copies of applicable county and city licenses or permits to provide the mobile barbering, cosmetology, or electrolysis services in each county and city of operation and the locations therein where the services will be offered.

(5) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(6) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

(7) A permanent base address from which the mobile unit shall operate.

(c) After initial approval of the floor plan and application has been granted, the applicant shall schedule an appointment to show the mobile unit to the bureau, or representative of the bureau, for final approval.

7356. Application to Transfer Ownership or Control

An application to transfer ownership or control of an existing licensed mobile unit shall be filed by the purchaser or lessor with the bureau within 10 days after purchase. Each application shall include the following:

(a) A detailed floor plan showing the location of doors, windows, restroom facilities, sinks, lift or ramps, ventilation, equipment, and dimensions of the mobile unit.

(b) Bills of sale or lease documents proving purchase or lease of existing equipment and the mobile unit.

(c) The existing mobile unit license.

(d) The required fee.

(e) Copies of applicable city and county licenses or permits to provide the mobile services in each county and city of operation issued in the new owner's name.

(f) Proof of compliance with applicable city, county, and state plumbing, electrical, and fire laws.

(g) Proof of a valid California driver's license issued to an officer or employee responsible for driving the mobile unit.

7357. Compliance with Regulations

(a) Mobile units shall comply with regulations adopted by the bureau that assure that the unit shall be kept clean, in good repair, and in compliance with this article.

(b) Each mobile unit shall be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply. The potable water tanks shall be not less than 100 gallons, and the holding tanks shall be of adequate capacity. In the event of depletion of potable water, operation shall cease until the supply is replenished.

(2) Continuous, on-demand hot water tanks which shall be not less than six-gallon capacity.

(3) Self-contained, recirculating, flush chemical toilet with holding tank.

(4) A covered galvanized, stainless steel, or other noncorrosive metal container for purposes of depositing hair clippings, refuse, and other waste materials.

(5) A split-lead generator with a remote starter, muffler, and a vent to the outside.

(6) A sealed combustible heater with an outside vent.

7358. Mobile Unit to be in Charge of Licensee

A mobile unit shall at all times be in the charge of a person licensed pursuant to this chapter except an apprentice.

7359. Employment of Unlicensed Persons

It is unlawful for any person, firm or corporation to hire, employ, allow to be employed, or permit to work, in or about a mobile unit, any person who performs or practices any occupation regulated under this chapter who is not duly licensed by the bureau.

Any person violating this section is guilty of a misdemeanor.

7360. Use of Portion of Mobile Unit for Residential Purposes

No person having charge of a mobile unit, whether as an owner or an employee, shall permit any room, or part thereof, in which any occupation regulated under this chapter is conducted or practiced, to be used for residential

purposes or for any other purpose that would tend to make the unit unsanitary, unhealthy, or unsafe, or endanger the health and safety of the consuming public.

This section shall not apply when the mobile unit is used for purposes other than the practice of any occupation regulated under this chapter outside of the designated geographical boundaries for which it is licensed.

7361. Application of Provisions of Chapter

All laws governing establishments under this chapter, except Article 6 (commencing with Section 7346), apply to mobile units, unless otherwise provided.

Article 8. Schools, Instructors, and Curricula

7362. "School Approved by Bureau"

(a) A school approved by the bureau is one which is licensed by the Council for Private Postsecondary and Vocational Education, or a public school in this state, and provides a course of instruction approved by the bureau.

(b) The bureau shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

7362.1. Requirements of School of Cosmetology Approved by Bureau

A school of cosmetology approved by the bureau shall also meet all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 25 cosmetology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of cosmetology at least 25 bona fide, full-time students for the cosmetology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of cosmetology and has committed to attend a full course in cosmetology.

(c) Maintain a course of practical training and technical instruction for the full cosmetology course as specified in this chapter and in bureau regulations. A course of instruction in any branch of cosmetology shall be taught in a school of cosmetology.

7362.2. Requirements of School of Barbering Approved by Bureau

A school of barbering approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of 15 barber students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of barbering at least 15 bona fide, full-time students for the barbering course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of barbering and has committed to attend a full course in barbering.

(c) Maintain a course of practical training and technical instruction for the full barbering course as specified in this chapter and in bureau regulations.

7362.3 Requirements of School of Electrology Approved by Bureau

A school of electrology approved by the bureau shall also do all of the following:

(a) Possess the equipment and floor space necessary for comprehensive instruction of five electrology students or the number of students enrolled in the course, whichever is greater.

(b) Have entered on the roll of a proposed school of electrology at least five bona fide, full-time students for the electrology course. For purposes of this section, a bona fide, full-time student is a person who has been entered on the roll of a proposed school of electrology and has committed to attend a full course in electrology.

(c) Maintain a course of practical training and technical instruction for the full electrology course as specified in this chapter and in bureau regulations.

7362.5 Hours of Practical Training and Technical Instruction

(a) A course in barbering established by a school shall consist of not less than 1,500 hours of practical training and technical instruction in the practice of barbering as defined in Section 7316.

(b) A course in cosmetology established by a school shall consist of not less than 1,600 hours of practical training and technical instruction in the practice of cosmetology as defined in Section 7316, except as provided in this chapter.

7364. Skin Care Course; Hours of Practical Training

A skin care course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

7365. Nail Care Course; Hours of Practical Training

A nail care course established by a school shall consist of not less than 350 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

7366. Electrolysis Course; Hours of Practical Training

An electrolysis course established by a school shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

7367. Transfer of Credits

For students who change from one program of instruction to another, the bureau shall grant credit for training obtained in one course that is identical to training required in another course.

7368. Designation of Service Offered by School as Student Work

No school shall advertise barbering, cosmetology or electrolysis services to the public through any medium unless those services are expressly designated as student work.

7389. Health and Safety Course on Hazardous Substances

The bureau shall develop or adopt a health and safety course on hazardous substances which shall be taught in schools approved by the bureau. Course development shall include pilot testing of the course and training classes to prepare instructors to effectively use the course.

7389.5. Barbering or Cosmetology Course Established by Federal or State Correctional Institutions in State

A course of training in barbering or cosmetology established by federal or state correctional institutions in California may qualify a person thereby trained to take the examination for licensure as a barber or cosmetologist provided the course complies with all applicable provisions of this act and the regulations adopted pursuant thereto.

7390. Cosmetology or Barbering Instructor Training Course; Hours of Practical Training

A cosmetology or barbering instructor training course shall consist of not less than 600 hours of practical training and technical instruction in accordance with a curriculum established by bureau regulation.

7391. Cosmetology or Barbering Instructor Admitted to Examination

The bureau shall admit to examination for license as a cosmetology or barbering instructor any person who has made application to the bureau in the proper form, who has paid the fee required by this chapter, and who meets the following qualifications:

- (a) Has completed the 12th grade or an accredited senior high school course of study in public schools of this state or its equivalent.
- (b) Is not subject to denial pursuant to Section 480.
- (c) Holds a valid license to practice cosmetology or barbering in this state.
- (d) Has done at least one of the following:
 - (1) Completed a cosmetology or barbering instructor training course in an approved school in this state or equivalent training in an approved school in another state.
 - (2) Completed not less than the equivalent of 10 months of practice as a teacher assistant or teacher aide in a school approved by the bureau.

(3) Practiced cosmetology or barbering in a licensed establishment in this state for a period of one year within the three years immediately preceding application, or its equivalent in another state. An applicant using practical experience to qualify under this section shall submit an affidavit signed by his or her employers attesting to the qualifying experience.

7392. Hours of Continuing Education to be Completed by Licensed Instructors

Each licensed instructor shall complete at least 30 clock hours of continuing education in the teaching of vocational education during each two-year licensing period. This section does not apply to an instructor who holds a credential to teach vocational education full time in a public school in this state.

For purposes of this section, programs designed for continuing education in the teaching of vocational education may include, but not be limited to, development of understanding and competency in the learning process, instructional techniques, curriculum and media, instructional evaluation, counseling and guidance, and the special needs of students.

The bureau shall adopt regulations establishing standards for the approval of continuing education courses and for the effective administration and enforcement of its continuing education requirements.

7393. Condition of Renewal of Instructor's License

As a condition of the renewal of the license of an instructor, the bureau may periodically require instructors to demonstrate current competence through continuing education as provided for in this chapter.

7394. Application of Continuing Education Requirements to Instructors on Inactive Status

The bureau's continuing education requirements shall not apply to instructors whose licenses are on inactive status according to the records maintained by the bureau.

Instructors whose licenses are on inactive status may not be employed as instructors in schools approved by the bureau.

Instructors whose licenses are on inactive status must complete at least 30 hours of continuing education in the teaching of vocational education as a condition of reinstatement to active status.

7395. Failure to Comply with Continuing Education Requirements

If an instructor with an active license status does not provide proof of compliance with the continuing education requirements provided for in this chapter within 45 days of a request from the bureau, the instructor's license shall revert to inactive status until proof of compliance is provided to the bureau.

7395.1. Students as Externs in Cosmetology Establishments

(a) A student who is enrolled in a school of cosmetology approved by the Council for Private Postsecondary and Vocational Education in a course approved by the bureau may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the bureau.

(2) The establishment has a minimum of four licensees working at the establishment, including employees, and owners or managers.

(3) All licensees at the establishment are in good standing with the bureau.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and all affected licensees that no reduction or alteration of any licensee's

current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the bureau.

(d) (1) A school participating in the externship program shall provide the participating establishment and the extern with a syllabus containing applicable information specified in Section 73880 of Title 5 of the California Code of Regulations. The extern, the school, and the establishment shall agree to the terms of and sign the syllabus prior to the extern beginning work at the establishment. No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

Article 10. Licenses

7396. Form and Content of License

The form and content of a license issued by the bureau shall be determined in accordance with Section 164.

The license shall prominently state that the holder is licensed as a barber, cosmetologist, esthetician, manicurist, electrologist, apprentice, barber instructor, or cosmetology instructor.

7397. Display of License

Every licensee shall display the license in a conspicuous place in his or her place of business or place of employment.

7398. Duplicate License

A duplicate license shall be issued upon the filing of a statement explaining the loss, verified by the oath of the applicant, and accompanied by the fee required by this chapter.

7399. Temporary License

Under no circumstances shall a temporary license be issued.

7400. Notification of New Address

Every licensee of the bureau, except establishments shall, within 30 days after a change of address, notify the bureau of the new address, and, upon receipt of the notification, the bureau shall make the necessary changes in the register.

7402. Violation of Chapter

Any person, firm, association or corporation violating this chapter, for which violation there is no specific penalty otherwise provided, is guilty of a misdemeanor and subject to a fine not to exceed two thousand five hundred dollars (\$2,500), or imprisonment in the county jail not to exceed six months, or both a fine and imprisonment.

Article 11. Disciplinary Proceedings

7403. Revocation, Suspension, or Denial of License

(a) The bureau may revoke, suspend, or deny at any time any license required by this chapter on any of the grounds for disciplinary action provided in this article. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

(b) In any case in which the administrative law judge recommends that the bureau revoke, suspend or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee to pay the bureau the reasonable costs of the investigation and adjudication of the case. For the purposes of this section, "costs" include charges by the bureau for investigating the case, charges incurred by the office of the Attorney General for investigating and presenting the case, and charges incurred by the Office of Administrative Hearings for hearing the case and issuing a proposed decision.

(c) The costs to be assessed shall be fixed by the administrative law judge and shall not, in any event, be increased by the bureau. When the bureau does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(d) The bureau may enforce the order for payment in the superior court in the county where the administrative hearing was held. This right of enforcement shall be in addition to any other rights the bureau may have as to any licensee directed to pay costs.

(e) In any judicial action for the recovery of costs, proof of the bureau's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f) Notwithstanding any other provision of law, all costs recovered under this section shall be deposited in the bureau's contingent fund as a scheduled reimbursement in the fiscal year in which the costs are actually recovered.

7404. Grounds for Disciplinary Action

The grounds for disciplinary action are as follows:

(a) Unprofessional conduct which includes, but is not limited to, any of the following:

(1) Incompetence or gross negligence, including failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology or disregard for the health and safety of patrons.

(2) Repeated similar negligent acts.

(3) Conviction of any crime substantially related to the qualifications, functions, or duties of the license holder, in which case, the records of conviction or a certified copy shall be conclusive evidence thereof.

(4) Advertising by means of knowingly false or deceptive statements.

(b) Failure to comply with the requirements of this chapter.

(c) Failure to comply with the rules governing health and safety adopted by the bureau and approved by the State Department of Health Services, for the regulation of establishments, or any practice licensed and regulated under this chapter.

(d) Failure to comply with the rules adopted by the bureau for the regulation of establishments, or any practice licensed and regulated under this chapter.

(e) Continued practice by a person knowingly having an infectious or contagious disease.

(f) Habitual drunkenness, habitual use of or addiction to the use of any controlled substance.

- (g) Obtaining or attempting to obtain practice in any occupation licensed and regulated under this chapter, or money, or compensation in any form, by fraudulent misrepresentation.
- (h) Failure to display the license or health and safety rules and regulations in a conspicuous place.
- (i) Engaging, outside of a licensed establishment and for compensation in any form whatever, in any practice for which a license is required under this chapter, except that when such service is provided because of illness or other physical or mental incapacitation of the recipient of the service and when performed by a licensee obtained for the purpose from a licensed establishment.
- (j) Permitting a license to be used where the holder is not personally, actively, and continuously engaged in business.
- (k) The making of any false statement as to a material matter in any oath or affidavit, which is required by the provisions of this chapter.
- (l) Refusal to permit or interference with an inspection authorized under this chapter.
- (m) Any action or conduct which would have warranted the denial of a license.
- (n) Failure to surrender a license that was issued in error or by mistake.

7404.1 Violation of Chapter

Any person, firm, association, or corporation violating this chapter is guilty of a misdemeanor unless a specific penalty is otherwise provided.

7405. "Conviction"; Effect on License

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The bureau may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

Article 12. Administrative Fines and Citations

7406. Assessment of Administrative Fines for Violations

In addition to the authority to conduct disciplinary proceedings under this chapter, the bureau, through its duly authorized representatives, shall have authority to assess administrative fines for the violation of any section of this chapter or the violation of any rules and regulations adopted by the bureau under this chapter.

7407. Schedule of Administrative Fines

The bureau shall establish by regulation a schedule of administrative fines for violations of this chapter. All moneys collected under this section shall be deposited in the bureau's contingent fund.

The schedule shall indicate for each type of violation whether, in the bureau's discretion, the violation can be corrected.

7408. Citations

The bureau, through its duly authorized representatives, shall issue a citation with respect to any violation for which an administrative fine may be assessed. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the specific provision alleged to have been violated. The administrative fine, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to correction, as determined by the bureau pursuant to Section 7406.

7409. Correction of Violation

Any licensee served with a citation may avoid the payment of the associated administrative fine by presentation of written proof satisfactory to the bureau, or its bureau chief, that the violation has been corrected. This provision

applies only to a licensee's first violation in any three-year period of any single provision of this chapter or the rules and regulations adopted pursuant to this chapter. Proof of correction shall be presented to the bureau, through its bureau chief, in a time and manner prescribed by the bureau. The bureau may, in its discretion, extend for a reasonable period the time within which to correct the violation upon the showing of good cause. Notices of correction filed after the prescribed date shall not be acceptable and the administrative fine shall be paid.

7410. Appeal to Disciplinary Review Committee

Persons to whom a notice of violation or a citation is issued and an administrative fine assessed may appeal the citation to a disciplinary review committee established by regulation by the director. All appeals shall be submitted in writing to the program within 30 days of the date the citation was issued. Appeals of citations that are not submitted in a timely manner shall be rejected.

After a timely appeal has been filed with the program, the administrative fine, if any, shall be stayed until the appeal has been adjudicated.

Persons appealing a citation, or their appointed representatives, shall appear in person before the disciplinary review committee. The appellant may present written or oral evidence relating to the facts and circumstances relating to the citation that was issued. Following an appeal before a disciplinary review committee, the disciplinary review committee shall issue a decision, based on findings of fact, which may affirm, reduce, dismiss, or alter any charges filed in the citation. In no event shall the administrative fine be increased. The appellant shall be provided with a written copy of the disciplinary review committee's decision relating to the appeal.

7411. Appeal of Decision by Disciplinary Review Committee

Persons receiving a decision from a disciplinary review committee may appeal the decision by filing a written request, within 30 days after receipt of the decision, to the program administrator. Following a hearing to appeal the decision of a disciplinary review committee, the director shall thereafter issue a decision, based on findings of fact, affirming, modifying or vacating the citation or penalty, or directing other appropriate relief. In no event shall the administrative fine be increased. The hearing to contest the decision of a disciplinary review committee shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all powers granted therein.

7413. Timeliness of Appeal; Finality of Decision

Appeals of citations not filed in a timely manner or failure of the appellant or the appellant's representative to appear before the disciplinary review committee at the appointed time except when good cause is shown, shall cause the citation to become final and there shall be no administrative appeal except as otherwise provided by law.

7414. Effect of Failure to Pay Administrative Fines

Persons who fail to pay administrative fines that were not contested or were contested but the appeal has been adjudicated, shall not be issued a license or allowed to renew any licenses issued to them until all fines are paid in addition to any application, renewal, or delinquency fees which are required.

Article 12.5. Tanning Facilities

7414.1 Inspection of Records Required to be Kept Under Filante Tanning Facility Act of 1988

All records required by law to be kept by tanning facilities subject to the Filante Tanning Facility Act of 1988 (Chapter 23 (commencing with Section 22700) of Division 8), including, but not limited to, records relating to written warning statements, the sign required to be posted, the qualifications of facility operators, statements of acknowledgment, parental consent forms, and injury reports, shall be open to inspection by the bureau, or its authorized representatives, during any inspection, or during any investigation initiated in response to a complaint that the tanning facility has violated any provision of the Filante Tanning Facility Act of 1988. A copy of any or all of those records shall be provided to the bureau, or its authorized representatives, immediately upon request.

7414.2 Circumstances Under Which Violation of Filante Tanning Facility Act of 1998 is Infraction; Punishment

(a) Notwithstanding any other provision of law, a violation of the Filante Tanning Facility Act of 1988 (Chapter 23 (commencing with Section 22700) of Division 8), is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when:

(1) A complaint or written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code is filed in court charging the offense as an infraction, or

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Notwithstanding any other provision of law, a violation of any of the provisions of the Filante Tanning Facility Act of 1988, which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000).

(c) This section shall become effective July 1, 1994.

7414.3 Authority to Issue Notice of Appear; Liability for Issuance

(a) Any representative of the bureau designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Representatives so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of that designation. Except as otherwise provided, the representative's authority is limited to the issuance of written notices to appear for infraction violations of the Filante Tanning Facility Act of 1988 and only when the violation is committed in the presence of the representative.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any representative, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the representative, at the time of that arrest, had reasonable cause to believe was lawful.

(c) This section shall become effective July 1, 1994.

7414.4 Dissemination of Information to Facilities Regarding Compliance with Filante Tanning Facility Act of 1988

The bureau, and its authorized representatives, may disseminate information to tanning facilities regarding compliance with the Filante Tanning Facility Act of 1988.

7414.5 Applicability of Article

This article shall be applicable only to those tanning facilities operated in conjunction with, or at the same location as, an establishment licensed under this chapter.

7414.6 Adoption of Regulations

The bureau may adopt regulations concerning the operation of tanning facilities in licensed establishments.

Article 13. Revenue

7415. Expiration of Licenses

Licenses issued under this chapter, unless specifically excepted, shall be issued for a two-year period and shall expire at midnight on the last day of the month of issuance by the bureau.

7416. Modification of License Renewal Application

The bureau shall, with the cooperation of the department, modify its license renewal applications to all licensees to designate whether or not they are currently employed in the occupation for which they are licensed.

7417. Renewal Period for Expired License

Except as otherwise provided in this article, a license that has expired for failure of the licensee to renew within the time fixed by this article may be renewed at any time within five years following its expiration upon application and payment of all accrued and unpaid renewal fees and delinquency fees. If the license is renewed after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee and meet current continuing education requirements, if applicable, prescribed by this chapter. Renewal under this section shall be

effective on the date on which the application is filed, or on the date on which the accrued renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in this article which next occurs following the effective date of the renewal, when it shall expire if it is not again renewed.

7418. Canceled License

Except as otherwise provided in this article, a license which has not been renewed within five years following its expiration shall be deemed canceled and may not be renewed, restored, reinstated, or reissued thereafter. The holder of the canceled license may obtain a new license only by submitting an application, paying all required fees, and qualifying for and passing the examination that would be required if the holder were applying for the license for the first time.

7419. Renewal of Suspended License

A suspended license is subject to expiration and shall be renewed by the licensee as provided in this article, but that renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

7420. Expiration of Revoked License

A revoked license is subject to expiration as provided in this article, but may not be renewed. If it is reinstated pursuant to the Administrative Procedure Act after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the current renewal fee.

7421. Fees

The fees shall be set by the bureau, within the limits set forth in this article, in amounts necessary to cover the expenses of the bureau in performing its duties under this chapter.

7422. Report to Controller Regarding Fees

All fees collected on behalf of the bureau and all receipts of every kind and nature, shall be reported to the Controller at the beginning of each month for the month preceding. At the same time the entire amount of collections shall be paid into the State Treasury, and shall be credited to the Barbering and Cosmetology Contingent Fund, which fund is hereby created.

The moneys in the contingent fund shall be appropriated to the bureau pursuant to the annual Budget Act and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect this chapter.

7423. Fee Schedule Relating to Individual Practice

The amounts of the fees required by this chapter relating to licenses for individual practitioners are as follows:

- (a) Cosmetologist application, examination and initial license fee shall be not more than fifty dollars (\$50).
- (b) Esthetician application, examination and initial license fee shall be not more than forty dollars (\$40).
- (c) Manicurist application, examination and initial license fee shall be not more than thirty-five dollars (\$35).
- (d) Barber application, examination and initial license fee shall be not more than fifty dollars (\$50).
- (e) Electrologist application, examination and initial license fee shall be not more than fifty dollars (\$50).
- (f) Apprentice application and license fee shall be not more than twenty-five dollars (\$25).
- (g) The license renewal fee for individual practitioner licenses that are subject to renewal shall be not more than fifty dollars (\$50).
- (h) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.
- (i) Any preapplication fee shall be established by the board in an amount sufficient to cover the costs of processing and administration of the preapplication.
- (j) This section shall become operative on July 1, 1992.

7423.5 Fee for Instructor Application, Examination and License

The amounts of the fees payable under this chapter relating to licenses for instructor are as follows:

- (a) The fee for instructor application, examination, and initial license shall be not more than fifty dollars (\$50).
- (b) The license renewal fee shall be not more than fifty dollars (\$50).
- (c) The license renewal delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

7424. Fee Schedule Relating to Operation of Establishment

The amounts of the fees payable under this chapter relating to licenses to operate an establishment are as follows:

- (a) The application and initial license fee shall be not more than eighty dollars (\$80).
- (b) The renewal fee shall be not more than forty dollars (\$40).
- (c) The delinquency fee is 50 percent of the renewal fee in effect on the date of renewal.
- (d) Any application and initial license fee for the change of ownership of an existing establishment may be established by the board in an amount less than the fee prescribed for a new establishment, but sufficient to cover the costs of processing the application and issuing the license.

7425. Fee Schedule Relating to Operation of Mobile Unit

The amounts of the fees payable under this chapter relating to licenses to operate a mobile unit are as follows:

- (a) The application fee shall be not more than fifty dollars (\$50).
- (b) The initial inspection and license fee shall not be more than one hundred dollars (\$100).
- (c) The renewal fee shall be not more than forty dollars (\$40).
- (d) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of renewal, notwithstanding Section 163.5.

7426. Fee For Duplicate License

The fee for a duplicate license as provided for in Section 7398 shall be ten dollars (\$10).

7426.5 Division of Fees into Categories Based on Processing Functions; Forfeiture of all or Part of Fee

The board may, by regulation, divide the fees payable under this chapter relating to licenses into separate categories based upon processing functions, such as application review, examination administration, or license issuance, provided that the combined fees for those processing functions do not exceed the maximum amount prescribed by the license category.

The board may, by regulation, establish procedures whereby some or all of a fee submitted in connection with an application for licensure would be forfeited by an applicant who has withdrawn his or her application, fails to appear for an examination, or is required to retake an examination.

7427. Sunset Review

[Section repealed 2000.]

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DIVISION 1.5 DENIAL, SUSPENSION AND REVOCATION OF LICENSES**Chapter 1. General Provisions****475. Applicability of Division**

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

- (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
- (2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

476. Exemptions

Nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

477. "Board"; "License"

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

478. "Application"; "Material"

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

Chapter 2. Denial of Licenses

§ 480. Grounds for denial; Effect of obtaining certificate of rehabilitation

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

481. Crime and Job-Fitness Criteria

Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

482. Rehabilitation Criteria

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

484. Attestation to Good Moral Character of Applicant

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

485. Procedure Upon Denial

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

486. Contents of Decision or Notice

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

- (a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.
- (b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

487. Hearing; Time

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

488. Hearing request

Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

- (a) Grant the license effective upon completion of all licensing requirements by the applicant.
- (b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include

suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

489. Denial of Application Without a Hearing

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

Chapter 3. Suspension and Revocation of Licenses

490. Grounds for Suspension or Revocation

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

490.5. Suspension of License for Failure to Comply with Child Support Order

A board may suspend a license pursuant to Section 11350.6 of the Welfare and Institutions Code if a licensee is not in compliance with a child support order or judgment.

491. Procedure Upon Suspension or Revocation

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

(a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

492. Effect of Completion of Drug Diversion Program on Disciplinary Action or Denial of License

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

493. Evidentiary Effect of Record of Conviction of Crime Involving Moral Turpitude

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

494. Interim Suspension or Restriction Order

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in

accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

If the interim order issued by the agency provides for anything less than a complete suspension of the licentiate from his or her business or profession, and the licentiate violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licentiate and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

Chapter 4. Public Reprovals

495. Public Repeval of Licentiate or Certificate Holder for Act Constituting Grounds for Suspension or Revocation of License or Certificate; Proceedings

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reprove, public reprove and suspension, or public reprove and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

Chapter 5. Examination Security

496. Grounds for Denial, Suspension, or Revocation of License

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

498. Fraud, Deceit or Misrepresentation as Grounds for Action Against License

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

499. Action Against License Based on Licentiate's Actions Regarding Application of Another

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.
